

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Lokesh Shantanu Tantuwaya, M.D.

Case No. 800-2014-007852

**Physician's and Surgeon's
Certificate No. G 79268**

Respondent

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 31, 2018.

IT IS SO ORDERED: August 2, 2018.

MEDICAL BOARD OF CALIFORNIA



**Kristina D. Lawson, J.D., Chair
Panel B**

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
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10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

14 **LOKESH SHANTANU TANTUWAYA,**
15 **M.D.**
P.O. Box 236105
16 Encinitas, CA 92023-6105

17 **Physician's and Surgeon's Certificate**
18 **No. G 79268,**

19 Respondent.

Case No. 800-2014-007852

OAH No. 2017110880

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
21 entitled proceedings that the following matters are true:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (complainant) is the Executive Director of the Medical Board
24 of California (Board). She brought this action solely in her official capacity and is represented in
25 this matter by Xavier Becerra, Attorney General of the State of California, by Michael J. Yun,
26 Deputy Attorney General.

27 2. Respondent Lokesh Shantanu Tantuwaya, M.D. (respondent) is representing himself
28 in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about June 22, 1994, the Board issued Physician's and Surgeon's Certificate No. G 79268 to Lokesh Shantanu Tantuwaya, M.D. (respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2014-007852, and will expire on August 31, 2019, unless renewed.

JURISDICTION

4. Accusation No. 8002014007852 was filed before the Medical Board of California (Board), and is currently pending against respondent. The Accusation and all other statutorily required documents were properly served on respondent on August 16, 2017. Respondent filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 800-2014-007852 is attached as Exhibit 1 and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, and understands the charges and allegations in Accusation No. 800-2014-007852, and the effects of this Stipulated Settlement and Disciplinary Order on his Physician's and Surgeon's Certificate No. G 79268.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in Accusation No. 800-2014-007852; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act, the California Code of Civil Procedure, and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every one of the rights set forth and/or referenced above.

CULPABILITY

9. Respondent does not contest that, at an administrative hearing, complainant could establish a *prima facie* case with respect to the charges and allegations contained in Accusation

1 No. 800-2014-007852 and that he has thereby subjected his Physician's and Surgeon's Certificate
2 No. G 79268 to disciplinary action.

3 10. Respondent agrees that if he ever petitions for early termination or modification of
4 probation, or if an accusation and/or petition to revoke probation is filed against him before the
5 Medical Board of California, all of the charges and allegations contained in Accusation No. 800-
6 2014-007852 shall be deemed true, correct and fully admitted by respondent for purposes of any
7 such proceeding or any other licensing proceeding involving respondent in the State of California.

8 11. Respondent agrees that his Physician's and Surgeon's Certificate No. G 79268 is
9 subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in
10 the Disciplinary Order below.

11 CONTINGENCY

12 12. The parties agree that this Stipulated Settlement and Disciplinary Order shall be
13 submitted to the Board for its consideration in the above-entitled matter and, further, that the
14 Board shall have a reasonable period of time in which to consider and act on this Stipulated
15 Settlement and Disciplinary Order after receiving it. By signing this stipulation, respondent fully
16 understands and agrees that he may not withdraw his agreement or seek to rescind this stipulation
17 prior to the time that the Board considers and acts upon it.

18 13. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null
19 and void and not binding upon the parties unless approved and adopted by the Board, except for
20 this paragraph, which shall remain in full force and effect. Respondent fully understands and
21 agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and
22 Disciplinary Order, the Board may receive oral and written communication from its staff and/or
23 the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify
24 the Board, any member thereof, and/or any other person from future participation in this or any
25 other matter affecting or involving respondent. In the event that the Board, in its discretion, does
26 not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of
27 this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and
28 shall not be relied upon or introduced in any disciplinary action by either party hereto.

Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

14. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

15. The parties understand and agree that copies of this Stipulated Settlement and Disciplinary Order may be used, including copies of the signatures of the parties, in lieu of original documents and signatures and, further, shall have the same force and effect as the originals.

16. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or opportunity to be heard by respondent, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. G 79268 issued to respondent Lokesh Shantanu Tantuwaya, M.D., is revoked. However, the revocation is stayed and respondent is placed on probation for three (3) years from the effective date of the Decision on the following terms and conditions.

1. **PROFESSIONALISM PROGRAM (ETHICS COURSE)** Within 90 calendar days of the effective date of this Decision, respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than nine (9) months after respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom

1 component. The professionalism program shall be at respondent's expense and shall be in
2 addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

3 A professionalism program taken after the acts that gave rise to the charges in the
4 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
5 or its designee, be accepted towards the fulfillment of this condition if the program would have
6 been approved by the Board or its designee had the program been taken after the effective date of
7 this Decision.

8 Respondent shall submit a certification of successful completion to the Board or its
9 designee not later than 15 calendar days after successfully completing the program or not later
10 than 15 calendar days after the effective date of the Decision, whichever is later.

11 2. **ANGER MANAGEMENT COURSE** Within 120 calendar days of the effective
12 date of this Decision, respondent shall submit to the Board or its designee for its prior approval an
13 Anger Management program. Within 180 calendar days from the effective date of this Decision,
14 respondent shall enroll in an Anger Management program approved in advance by the Board or
15 its designee. Respondent, at the program's discretion, shall undergo and complete the program's
16 assessment of respondent's ability to manage his anger and/or emotions. The program shall
17 evaluate respondent at the end of the program and it shall provide any data from the assessment
18 and program as well as the results of any evaluation to the Board or its designee.

19 Failure to complete the entire program not later than twelve (12) months after respondent's
20 initial enrollment shall constitute a violation of probation unless the Board or its designee agrees
21 in writing to a later time for completion. Based on respondent's performance in and evaluations
22 from the assessment, education, and/or training, the program shall advise the Board or its
23 designee of its recommendation(s) for additional education, training, psychotherapy and other
24 measures necessary to ensure that respondent can practice medicine safely. Respondent shall
25 comply with program recommendations. At the completion of the program, the program shall
26 provide the results of any evaluation to the Board or its designee. The Anger Management
27 program shall be at respondent's expense and shall be in addition to the Continuing Medical
28 Education (CME) requirements for renewal of licensure.

1 The program has the authority to determine whether or not respondent successfully
2 completed the program.

3 An Anger Management course taken after the acts that gave rise to the charges in the
4 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
5 or its designee, be accepted towards the fulfillment of this condition if the course would have
6 been approved by the Board or its designee had the course been taken after the effective date of
7 this Decision.

8 3. **MEDICAL EVALUATION AND TREATMENT** Within 30 calendar days of the
9 effective date of this Decision, and on a periodic basis thereafter as may be required by the Board
10 or its designee, respondent shall undergo a medical evaluation by a Board-appointed physician
11 who shall consider any information provided by the Board or designee and any other information
12 the evaluating physician deems relevant and shall furnish a medical report to the Board or its
13 designee. Respondent shall provide the evaluating physician with any information and
14 documentation that the evaluating physician may deem pertinent.

15 Following the evaluation, respondent shall comply with all restrictions or conditions
16 recommended by the evaluating physician within 15 calendar days after being notified by the
17 Board or its designee. If respondent is required by the Board or its designee to undergo medical
18 treatment, respondent shall within 30 calendar days of the requirement notice, submit to the
19 Board or its designee for prior approval the name and qualifications of a California licensed
20 treating physician of respondent's choice. Upon approval of the treating physician, respondent
21 shall within 15 calendar days undertake medical treatment and shall continue such treatment until
22 further notice from the Board or its designee.

23 The treating physician shall consider any information provided by the Board or its designee
24 or any other information the treating physician may deem pertinent prior to commencement of
25 treatment. Respondent shall have the treating physician submit quarterly reports to the Board or
26 its designee indicating whether or not respondent is capable of practicing medicine safely.
27 Respondent shall provide the Board or its designee with any and all medical records pertaining to
28 treatment that the Board or its designee deems necessary.

1 If, prior to the completion of probation, respondent is found to be physically incapable of
2 resuming the practice of medicine without restrictions, the Board shall retain continuing
3 jurisdiction over respondent's license and the period of probation shall be extended until the
4 Board determines that respondent is physically capable of resuming the practice of medicine
5 without restrictions. Respondent shall pay the cost of the medical evaluation(s) and treatment.

6 4. **NOTIFICATION** Within seven (7) days of the effective date of this Decision,
7 respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
8 Chief Executive Officer at every hospital where privileges or membership are extended to
9 respondent, at any other facility where respondent engages in the practice of medicine, including
10 all physician and locum tenens registries or other similar agencies, and to the Chief Executive
11 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.
12 Respondent shall submit proof of compliance to the Board or its designee within 15 calendar
13 days.

14 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

15 5. **OBEY ALL LAWS** Respondent shall obey all federal, state and local laws, all rules
16 governing the practice of medicine in California and remain in full compliance with any court
17 ordered criminal probation, payments, and other orders.

18 6. **QUARTERLY DECLARATIONS** Respondent shall submit quarterly declarations
19 under penalty of perjury on forms provided by the Board, stating whether there has been
20 compliance with all the conditions of probation.

21 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
22 of the preceding quarter.

23 7. **GENERAL PROBATION REQUIREMENTS**

24 **Compliance with Probation Unit**

25 Respondent shall comply with the Board's probation unit.

26 **Address Changes**

27 Respondent shall, at all times, keep the Board informed of respondent's business and
28 residence addresses, email address (if available), and telephone number. Changes of such

addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

License Renewal

Respondent shall maintain a current and renewed California physician's and surgeon's license.

Travel or Residence Outside California

Respondent shall immediately inform the Board or its designee, in writing, of travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) calendar days.

In the event respondent should leave the State of California to reside or to practice, respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of departure and return.

8. **INTERVIEW WITH THE BOARD OR ITS DESIGNEE** Respondent shall be available in person upon request for interviews either at respondent's place of business or at the probation unit office, with or without prior notice throughout the term of probation.

9. **NON-PRACTICE WHILE ON PROBATION** Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of respondent's return to practice. Non-practice is defined as any period of time respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If respondent resides in California and is considered to be in non-practice, respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which

1 has been approved by the Board or its designee shall not be considered non-practice and does not
2 relieve Respondent from complying with all the terms and conditions of probation. Practicing
3 medicine in another state of the United States or Federal jurisdiction while on probation with the
4 medical licensing authority of that state or jurisdiction shall not be considered non-practice. A
5 Board-ordered suspension of practice shall not be considered as a period of non-practice.

6 In the event respondent's period of non-practice while on probation exceeds 18 calendar
7 months, respondent shall successfully complete the Federation of State Medical Boards's Special
8 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program
9 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model
10 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

11 Respondent's period of non-practice while on probation shall not exceed two (2) years.

12 Periods of non-practice will not apply to the reduction of the probationary term.

13 Periods of non-practice for respondent residing outside of California will relieve respondent
14 of the responsibility to comply with the probationary terms and conditions with the exception of
15 this condition and the following terms and conditions of probation: Obey All Laws; General
16 Probation Requirements; and Quarterly Declarations.

17 10. **COMPLETION OF PROBATION** Respondent shall comply with all financial
18 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
19 completion of probation. Upon successful completion of probation, respondent's certificate shall
20 be fully restored.

21 11. **VIOLATION OF PROBATION** Failure to fully comply with any term or
22 condition of probation is a violation of probation. If respondent violates probation in any respect,
23 the Board, after giving respondent notice and the opportunity to be heard, may revoke probation
24 and carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke
25 Probation, or an Interim Suspension Order is filed against respondent during probation, the Board
26 shall have continuing jurisdiction until the matter is final, and the period of probation shall be
27 extended until the matter is final.

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12. **LICENSE SURRENDER** Following the effective date of this Decision, if respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, respondent may request to surrender his license. The Board reserves the right to evaluate respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the Board or its designee and respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

13. **PROBATION MONITORING COSTS** Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I fully understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate No. G 79268. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: June 8, 2018

LS Tantuwaya
 LOKESH SHANTANU TANTUWAYA, M.D.
 Respondent

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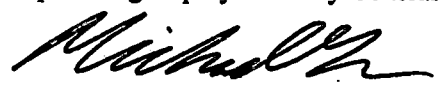
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Medical Board of California.

Dated: 6/13/2018

Respectfully submitted,
XAVIER BECERRA
Attorney General of California
ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General



MICHAEL J. YUN
Deputy Attorney General
Attorneys for Complainant

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Exhibit 1

Accusation No. 800-2014-007852

1 XAVIER BECERRA
Attorney General of California
2 ALEXANDRA M. ALVAREZ
Supervising Deputy Attorney General
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8 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO AUGUST 16, 2017
BY: [Signature] ANALYST

10 BEFORE THE
11 MEDICAL BOARD OF CALIFORNIA
12 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2014-007852

14 **LOKESH SHANTANU TANTUWAYA,**
15 **M.D.**

A C C U S A T I O N

16 7830 Clairemont Mesa Blvd. #203
San Diego, CA 92111

17 **Physician's and Surgeon's Certificate**
18 **No. G 79268,**

19 Respondent.

20
21 Complainant alleges:

22 **PARTIES**

23 1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official
24 capacity as the Executive Director of the Medical Board of California.

25 2. On or about June 22, 1994, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G79268 to Lokesh Shantanu Tantuwaya, M.D. (respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges and
28 allegations brought herein and will expire on August 31, 2017, unless renewed.

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"(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

6. Section 2234 of the Code, states, in pertinent part:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“ . . .

“(f) Any action or conduct which would have warranted the denial of a certificate.

“ ”

7. Unprofessional conduct under Business and Professions Code section 2234 is conduct which breaches the rules or ethical code of the medical profession, or conduct which is unbecoming to a member in good standing of the medical profession, and which demonstrates an unfitness to practice medicine.¹

8. Section 2236 of the Code states, in pertinent part:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct.”

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¹ *Shea v. Board of Medical Examiners* (1978) 81 Cal.App.3d 564, 575.

1 within the meaning of this chapter. The record of conviction shall be conclusive
2 evidence only of the fact that the conviction occurred.

3 “...

4 “(c) ... The division² may inquire into the circumstances surrounding the
5 commission of a crime in order to fix the degree of discipline or to determine if the
6 conviction is of an offense substantially related to the qualifications, functions, or
7 duties of a physician and surgeon.

8 “(d) A plea or verdict of guilty or a conviction after a plea of *nolo contendere* is
9 deemed to be a conviction within the meaning of this section and Section 2236.1.
10 The record of conviction shall be conclusive evidence of the fact that the conviction
11 occurred.”

12 9. Section 490 of the Code states:

13 “(a) In addition to any other action that a board is permitted to take against a
14 licensee, a board may suspend or revoke a license on the ground that the licensee has
15 been convicted of a crime, if the crime is substantially related to the qualifications,
16 functions, or duties of the business or profession for which the license was issued.

17 “(b) Notwithstanding any other provision of law, a board may exercise any
18 authority to discipline a licensee for conviction of a crime that is independent of the
19 authority granted under subdivision (a) only if the crime is substantially related to the
20 qualifications, functions, or duties of the business or profession for which the
21 licensee’s license was issued.

22 “(c) A conviction within the meaning of this section means a plea or verdict of
23 guilty or a conviction following a plea of *nolo contendere*. Any action that a board is
24 permitted to take following the establishment of a conviction may be taken when the
25 time for appeal has elapsed, or the judgment of conviction has been affirmed on

26 ² Section 2002 of the Code states: “Unless otherwise expressly provided, the term ‘board’
27 as used in this chapter means the Medical Board of California. As used in this chapter or any
28 other provision of law, ‘Division of Medical Quality’ and ‘Division of Licensing’ shall be deemed
to refer to the board.

1 appeal, or when an order granting probation is made suspending the imposition of
2 sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of
3 the Penal Code.

4 "..."

5 10. Section 493 of the Code states:

6 "Notwithstanding any other provision of law, in a proceeding conducted by a
7 board within the department pursuant to law to deny an application for a license or to
8 suspend or revoke a license or otherwise take disciplinary action against a person who
9 holds a license, upon the ground that the applicant or the licensee has been convicted
10 of a crime substantially related to the qualifications, functions, and duties of the
11 licensee in question, the record of conviction of the crime shall be conclusive
12 evidence of the fact that the conviction occurred, but only of that fact, and the board
13 may inquire into the circumstances surrounding the commission of the crime in order
14 to fix the degree of discipline or to determine if the conviction is substantially related
15 to the qualifications, functions, and duties of the licensee in question.

16 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
17 and 'registration.'"

18 11. Section 820 of the Code states:

19 "Whenever it appears that any person holding a license, certificate or permit
20 under this division or under any initiative act referred to in this division may be
21 unable to practice his or her profession safely because the licentiate's ability to
22 practice is impaired due to mental illness, or physical illness affecting competency,
23 the licensing agency may order the licentiate to be examined by one or more
24 physicians and surgeons or psychologists designated by the agency. The report of the
25 examiners shall be made available to the licentiate and may be received as direct
26 evidence in proceedings conducted pursuant to Section 822."

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28 ///

1 12. Section 821 of the Code provides that the licentiate's failure to comply with an
2 order issued under section 820 shall constitute grounds for the suspension or
3 revocation of the licentiate's certificate of license.

4 13. Section 822 of the Code states:

5 "If a licensing agency determines that its licentiate's ability to practice his or her
6 profession safely is impaired because the licentiate is mentally ill, or physically ill
7 affecting competency, the licensing agency may take action by any one of the
8 following methods:

9 "(a) Revoking the licentiate's certificate or license.

10 "(b) Suspending the licentiate's right to practice.

11 "(c) Placing the licentiate on probation.

12 "(d) Taking such other action in relation to the licentiate as the licensing
13 agency in its discretion deems proper.

14 "The licensing section shall not reinstate a revoked or suspended certificate or
15 license until it has received competent evidence of the absence or control of the
16 condition which caused its action and until it is satisfied that with due regard for the
17 public health and safety the person's right to practice his or her profession may be
18 safely reinstated."

19 14. California Code of Regulations, title 16, section 1360, states:

20 "For the purposes of denial, suspension or revocation of a license, certificate or
21 permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime
22 or act shall be considered to be substantially related to the qualifications, functions or
23 duties of a person holding a license, certificate or permit under the Medical Practice
24 Act if to a substantial degree it evidences present or potential unfitness of a person
25 holding a license, certificate or permit to perform the functions authorized by the
26 license, certificate or permit in a manner consistent with the public health, safety or
27 welfare. Such crimes or acts shall include but not be limited to the following:

28 ///

1 Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of, or conspiring to violate any provision of the Medical Practice Act."

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Conviction of Crimes Substantially Related to Qualifications,
5 Functions, or Duties of a Physician and Surgeon)**

6 15. Respondent has subjected his Physician's and Surgeon's Certificate No. G79268 to
7 disciplinary action under sections 2227 and 2234, as defined by section 2236, subdivision (a), of
8 the Code, in that he has been convicted of a crime substantially related to the qualifications,
9 functions, or duties of a physician and surgeon, as more particularly alleged hereinafter:

10 **Witness Intimidation and Child Endangerment Convictions (December 1, 2015)**

11 16. On or about August 18, 2014, respondent and his wife, K.T. were living
12 apart due to marital problems. Around that time, K.T. had agreed to bring their
13 children to the residence of respondent to spend weekends together as a family.

14 17. On or about August 17, 2014, at approximately 9:20 P.M., respondent's
15 wife, K.T. and their two children -- a daughter and a son -- were at respondent's
16 residence, celebrating an Indian holiday and respondent's lunar birthday. K.T. had
17 made dessert for the occasion and the family was in the kitchen preparing to eat the
18 dessert. When K.T. made a pun about the name of a Hindu religious figure,
19 respondent got very upset and yelled at K.T., "Why are you so fucking stupid?" K.T.
20 apologized and said she did not mean to be offensive or disrespectful; their daughter
21 later told a police officer that it was a harmless pun. Respondent continued to yell
22 and use profanities. Respondent lunged at K.T. with his forearm and fist, but did not
23 physically touch K.T. at that time. Respondent then told everyone to leave the house.

24 18. K.T. went to the laundry room to gather the children's and her clothes.
25 Respondent followed K.T. into the laundry room and pushed K.T.'s shoulder with his
26 hand while yelling profanities at her. She was afraid and felt trapped, but she did not
27 verbalize her fear. K.T. yelled to her children to get their belongings so that they

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1 could leave. K.T. was able to freely exit the laundry room and met the two children at
2 the front door.

3 19. By the front door, respondent pushed K.T. on her shoulder against the
4 wall and told the children, "You kids can leave, but I'm going to kill your mother
5 tonight." K.T. stated she was afraid he was going to hurt her or choke her after his
6 statement. One of their children went towards respondent and hit him with her fist in
7 the jaw. K.T. and the two children all went into the kitchen and to the other side of
8 the kitchen island to separate themselves from respondent.

9 20. Respondent followed K.T. and the children into the kitchen where he
10 grabbed K.T.'s laptop and told her he was going to destroy it. He then grabbed an
11 empty wine bottle and raised it above his head with his right arm. He made motions
12 towards K.T. and one of the children like he was going to throw the wine bottle at
13 them. K.T. feared respondent would throw the wine bottle at her or her children.
14 K.T. picked up a hammer from the kitchen counter and held it. One of the children
15 took out her phone and pre-dialed 911, but did not start the call. Respondent became
16 aware that their daughter had started to dial 911. K.T. and the two children went out
17 to the backyard out of fear of respondent.

18 21. Respondent followed them to the backyard. He pulled his daughter's hair
19 on the left side of her head, yanking her to the ground. K.T. went towards respondent
20 and their daughter and told respondent to leave their daughter alone. Respondent took
21 the hammer from K.T. Respondent attempted to take the phone away from their
22 daughter, clawing at her body. During the struggle for the phone, 911 was called. At
23 this point, respondent realized 911 had been called and he stopped attacking K.T. and
24 their daughter.

25 22. K.T. and the two children all ran around to the front of the house, got in
26 the car, and left. K.T. and the two children went to K.T.'s apartment. K.T. later
27 contacted the Sheriff's Department's non-emergency line and was instructed to go to
28 the Sheriff's Encinitas Station to give a statement.

1 23. On or about August 18, 2014, at approximately 12:50 A.M., K.T. went to
2 the Sheriff's station to provide a statement to Deputy Sheriff J.D. of the San Diego
3 Sheriff's Department. K.T.'s daughter also provided a statement to Deputy Sheriff
4 J.D., which corroborated K.T.'s statement. In addition, their daughter stated that
5 respondent was having one of his "blow ups," and that she was afraid for her own
6 safety and her mother's safety.

7 24. After taking their statements, Deputy Sheriff J.D. contacted a Superior
8 Court Judge for an emergency protective order ("EPO").

9 25. On or about August 18, 2014, at approximately 1:18 A.M., the Superior
10 Court Judge authorized an EPO listing K.T. and the two children as protected parties
11 and respondent as the restrained party.

12 26. Law enforcement was not able to locate respondent while attempting to
13 serve the EPO and place him under arrest. Deputy Sheriff M. of San Diego County
14 Sheriff's Department attempted to contact respondent by cell phone without success.
15 Deputy Sheriff M. left a message on respondent's voice mail to ask him to contact the
16 Sheriff's Department.

17 27. On or about August 18, 2014, at approximately 5:50 P.M., respondent
18 showed up at the Sheriff's Encinitas Station with his father. Deputy Sheriff J.D.
19 arrested respondent for suspected violations of Penal Code sections 243, subdivision
20 (E)(1) [Domestic Violence], 422 [Criminal Threats], 273, subdivision (A)(B) [Willful
21 Cruelty to a Child without Injury], and 591.5 [Preventing a Party from Contacting
22 Assistance by Obstructing a Wireless Device]. Respondent was booked into county
23 jail. Respondent was served with a copy of the EPO at that time.

24 28. On or about November 19, 2014, in the Superior Court of California,
25 County of San Diego, in the case entitled *The People of the State of California v.*
26 *Lokesh Tantuwaya*, Superior Court Case No. SCN335891, the San Diego County
27 District Attorney's Office charged respondent in Count 1 with a felony violation of
28 Penal Code section 422 [Criminal Threat] with K.T. listed as the victim, in Count 2

1 with a felony violation of Penal Code section 422 [Criminal Threat] with his daughter
2 listed as the victim, in Count 3 with a felony violation of Penal Code section 136.1,
3 subdivision (b)(1) [Attempting to Dissuade a Witness from Reporting a Crime], in
4 Count 4 with a misdemeanor violation of Penal Code section 243, subdivision (e)(1)
5 [Domestic Violence], in Count 5 with a misdemeanor-violation of Penal Code section
6 273, subdivision (a)(b) [Cruelty to a Child] with his daughter listed as the victim, and
7 in Count 6 with a misdemeanor violation of Penal Code section 273(a)(b) [Child
8 Endangerment] with his son listed as the victim.

9 29. On or about December 1, 2015, in the Superior Court of California,
10 County of San Diego, in the case entitled *The People of the State of California v.*
11 *Lokesh Tantuwaya*, Superior Court Case No. SCN335891, respondent pled Guilty to
12 and was convicted of Count 3, a violation of Penal Code section 136.1, subdivision
13 (b)(1) [Attempting to Dissuade a Witness from Reporting a Crime], reduced to a
14 misdemeanor pursuant to Penal Code section 17, subdivision (b)(4), and of Count 6, a
15 misdemeanor violation of Penal Code section 273(a)(b) [Child Endangerment].

16 30. On or about January 4, 2016, in Superior Court Case No. SCN335891,
17 respondent was sentenced to four (4) years court probation, a 52-week Domestic
18 Violence Recovery Program, 30 days in Sheriff's Public Works program, and fees and
19 fines in the total amount of \$1,014.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Failure to Comply with Order of Examination)**

22 31. Respondent has further subjected his Physician's and Surgeon's Certificate No.
23 G79268 to disciplinary action under sections 2227 and 821, of the Code, in that he failed to
24 comply with an Order issued pursuant to section 820 of the Code, as more particularly alleged
25 hereinafter:

26 32. Paragraphs 16 through 30, above, are hereby incorporated by reference
27 and realleged as if fully set forth herein.

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1 **Post-Convictions History**

2 33. On or about June 29, 2016, Special Investigator R.A. (Inv. R.A.) of the
3 Medical Board of California (Board) conducted a subject interview of respondent
4 regarding his criminal convictions at the San Diego Field Office of the Health Quality
5 Investigation Unit (HQIU), an investigative unit of the California Department of
6 Consumer Affairs.

7 34. During the subject interview, respondent told Inv. R.A. that he suffered a
8 concussion in January 2016, while playing polo and that he was clinically tested.

9 35. On or about June 7, 2017, the Board issued an Order Compelling Physical
10 and Psychiatric Examinations with Biological Fluid Testing ("820 Examination
11 Compel Order") against respondent pursuant to Business and Professions Code
12 section 820.

13 36. The appointments for respondent for his physical and mental
14 examinations pursuant to Business and Professions Code section 820 ("820
15 Examination(s)") were scheduled by HQIU Investigator D.F. (Inv. D.F.) with A.A.,
16 M.D. (Dr. A.A.) for the mental examination and with L.R., M.D. (Dr. L.R.) for the
17 physical examination. The mental examination appointment with Dr. A.A. was
18 scheduled for July 10, 2017, at 3 P.M. The physical examination appointment with
19 Dr. L.R. was scheduled for July 11, 2017, at 2:30 P.M.

20 37. On or about June 19, 2017, Inv. D.F. drove to respondent's residence to
21 contact him regarding the 820 examinations. Respondent's residence was inside a
22 gated community and the workers at the property told Inv. D.F. that respondent was
23 out of state for the week. Inv. D.F. was not allowed beyond the security gate.

24 38. On or about June 20, 2017, Inv. D.F. emailed respondent a copy of the
25 820 Examination Compel Order, along with appointment letters for his mental and
26 physical examinations.

27 39. On or about June 21, 2017, Inv. D.F. received a voice message from
28 respondent in which he acknowledged that he received Inv. D.F.'s email with the

1 attached 820 Examination Compel Order and the appointment letters for his 820
2 examinations. Inv. D.F. saved the audio message and made an audio copy.

3 40. On or about June 21, 2017, Inv. D.F. spoke with respondent on the
4 telephone. Respondent told Inv. D.F. that he received the 820 Order along with the
5 appointment letters. Respondent stated he would be in town to attend his mental
6 examination on July 10, 2017, and his physical examination set for July 11, 2017.

7 41. On or about July 6, 2017, respondent called Inv. D.F. on the phone to
8 state that he would not be in town to attend his July 10, 2017 mental examination
9 with Dr. A.A. Inv. D.F. provided respondent with Dr. A.A. contact information for
10 him to coordinate and reschedule.

11 42. During the same phone conversation, respondent stated he believes he
12 will still be able to attend his physical examination set for July 11, 2017, with Dr.
13 L.R., but he requested that Inv. D.F. provide him with Dr. L.R.'s contact information
14 in the event that he needed to reschedule the physical examination. Inv. D.F.
15 provided respondent with Dr. L.R.'s direct contact information including Dr. L.R.'s
16 cell phone number and his email address.

17 43. Later in the day, on or about July 6, 2017, Dr. A.A. called Inv. D.F. to tell
18 him that respondent called and agreed to meet him the next day on July 7, 2017, to
19 attend his mental examination.

20 44. On or about July 7, 2017, Dr. A.A. told Inv. D.F. that respondent showed
21 up for his mental examination.

22 45. On or about July 11, 2017, respondent failed to show up at his physical
23 examination ordered by the Board pursuant to section 820 of the Code. On the same
24 day, Dr. L.R. left a voice mail with Inv. D.F. to inform him that respondent missed his
25 appointment for his physical examination.

26 46. On or about July 20, 2017, Dr. L.R. emailed Inv. D.F. to inform him that
27 Dr. L.R. still had not heard from respondent.

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1 47. On or about August 7, 2017, Dr. A.A. produced his 820 Mental
2 Evaluation Report, based on his evaluation of respondent. In it, Dr. A.A. opined that
3 he does "not view [respondent's] current mental state as disabling in any manner."

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(General Unprofessional Conduct)**

6 48. Respondent has further subjected his Physician's and Surgeon's Certificate No.
7 G79268 to disciplinary action under sections 2227 and 2234 of the Code, in that he has engaged
8 in conduct which breaches the rules or ethical code of the medical profession, or conduct which is
9 unbecoming a member in good standing of the medical profession, and which demonstrates an
10 unfitness to practice medicine, as more particularly alleged in paragraphs 15 through 46, above,
11 which are hereby incorporated by reference and realleged as if fully set forth herein.

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1 **PRAYER**

2 WHEREFORE, complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G79268, issued to
5 respondent Lokesh Shantanu Tantuwaya, M.D.;

6 2. Revoking, suspending or denying approval of respondent Lokesh Shantanu
7 Tantuwaya, M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the
8 Code, and advanced practice nurses;

9 3. Ordering respondent Lokesh Shantanu Tantuwaya, M.D. to pay the Medical Board of
10 California the costs of probation monitoring, if placed on probation; and

11 4. Taking such other and further action as deemed necessary and proper.

12
13 DATED: August 16, 2017


14 KIMBERLY KIRCHMEYER
15 Executive Director
16 Medical Board of California
17 State of California
18 Complainant

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